No-fault insurance regime: Moral damages, loss of wages and bodily injury resulting from automobile accidents

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The scope of the no-fault liability regime under the *Automobile Insurance Act* (AIA) was delineated by the Superior Court of Québec in *Roberge c. Compagnie General Motors du Canada*, 2023 QCCS 4309.

This decision summarizes the criteria for applying the AIA rules governing automobile accidents causing injury. It sets a precedent providing a clear interpretive reference regarding the damages that may or may not be covered by the scope of the AIA's no-fault liability regime.

Details of the various damages claimed

In her originating application, the applicant had claimed over $6 million from General Motors of Canada (GM) following a serious motor vehicle accident. The applicant stated that, during the accident, her vehicle's airbags failed to deploy when a second vehicle collided with her driver-side door.

In connection with this accident, the applicant asked the Court to grant her:

- The costs of repairing her vehicle;
- Cancellation of her lease;
- Punitive damages;
- Damages for the intangible injury she suffered by being deprived of a safe vehicle and no longer being able to enjoy certain activities;
- Compensation for lost wages caused by the accident;
- Psychological damages;
- Damages for loss of earning capacity.

Case law on the no-fault liability regime and details of the decision

Section 83.57 of the AIA stipulates that persons eligible for compensation from the Société de l'assurance automobile du Québec (SAAQ) may not bring a civil action to be compensated for the same injury.

As stated in *Godbout v. Pagé*, 2017 SCC 18, a fault committed by a third party in an automobile accident does not give rise to a remedy against it provided that there is a plausible, logical and sufficiently close link between the bodily injury and the accident. Note that case law is consistent in treating each third party on an equal footing when enforcing the regime, whether it be the manufacturer, the person who caused the accident or even a third party related to the latter.

On the basis that the AIA must be interpreted broadly and liberally,[1] Justice Cossette, presiding over the case, found that all [translation] "economic damages and those relating to quality of life damages"[2] constitute bodily injury within the meaning of subsection 83.57 (1) of the AIA. In addition, the principles of interpretation dictate that even moral and exemplary damages that are related to the initial bodily injury resulting from a motor vehicle accident cannot be the subject of a non-AIA claim.[3]

Accordingly, the only damage resulting from an automobile accident that may give rise to a civil liability action is property damage, excluding damage related to bodily injury.[4]

Any damage resulting from and retaining a causal connection with an automobile accident will be classified as bodily injury under the AIA. For example, the Court considered in this case that stress, moral damages, loss of wages, punitive damages and loss of enjoyment were included in this definition. Consequently, for all these damages, no action could be brought against a person involved in the accident or against a third party.

Since all the damages claimed were closely related to the applicant's initial bodily injury resulting from the automobile accident, the judge concluded that such a claim was ill founded in law and confirmed its inadmissibility.

Contact us

If you have any questions about this article or other aspects of auto insurance indemnification, feel free to reach out to the contacts below or, depending on the province, any counsel in BLG's Insurance Claims Defence and Automotive groups.

Footnotes

[1] *Productions Pram inc. c. Lemay*, [1992] R.J.Q. 1738 (C.A.).

[2] *Patrice c. Automobile Renault Canada Ltée*, 2006 QCCA 1111, paras. 24 and 29, application for leave to appeal
dismissed (S.C.C., 2007-02-22) 31683.

[3] *Société de l'assurance automobile du Québec c. Ville de Montréal*, 2022 QCCA 1165, paras. 25 and 32.

[4] *Patrice c. Automobile Renault Canada Ltée*, *supra*.

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